

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF WISCONSIN**

UNITED STATES OF AMERICA,

Plaintiff,

v.

Case No. 06-CR-142

DAVID McALISTER,

Defendant.

**ORDER ON THE DEFENDANT’S REQUEST FOR AN EVIDENTIARY
HEARING**

On June 13, 2006, the grand jury returned a three count indictment alleging that David McAlister (“McAlister”) possessed with intent to distribute more than five grams of crack cocaine, in violation of Title 21, United States Code, Sections 841(a)(1), 841(b)(1)(B), knowingly carried a firearm in relation to a drug trafficking crime, in violation of Title 18, United States Code, Section 924(c)(1)(A)(i), and illegally possessed a firearm after having been convicted of a felony, in violation of Title 18, United States Code, Sections 922(g)(1) and 924(a)(2).

On November 24, 2006, the defendant filed a motion to suppress all evidence seized from his person following an encounter with Racine police on May 18, 2006, and McAlister requests an evidentiary hearing.

McAlister’s motion fails to comply with Criminal Local Rule 12.3 and this court’s Pre-trial Order. There is no indication that defense counsel conferred with the government regarding this motion and McAlister does not include an estimate of the amount of in-court time necessary for the

hearing. The government has not responded to McAlister's request for an evidentiary hearing, which is also required by the Pre-trial Order.

Despite the parties' failure to comply with the Criminal Local Rules and this court's pretrial order, this court believes that an evidentiary hearing is necessary to resolve the defendant's motion to suppress and therefore shall grant the defendant's request for a hearing.

IT IS THEREFORE ORDERED that an evidentiary hearing regarding the defendant's motion to suppress shall be conducted on **December 14, 2006**, at **9:30 a.m.** in Courtroom 254, United States Courthouse, 517 E. Wisconsin Ave, Milwaukee, Wisconsin. The court has scheduled three hours of court time for this hearing. If either party believes that additional time is necessary, the party shall promptly notify the court upon receipt of this order.

Dated at Milwaukee, Wisconsin this 30th day of November, 2006.

s/AARON E. GOODSTEIN
U.S. Magistrate Judge